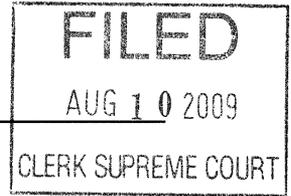


IN THE SUPREME COURT OF IOWA



IN THE MATTER OF IOWA RULES OF CIVIL PROCEDURE 1.715, 1.903(3), 1.954, 1.1701, 1.1901 FORMS 12, 13, 14 and 15	REPORT OF THE SUPREME COURT
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TO: THE HONORABLE KEITH A. KREIMAN, CHAIR OF THE SENATE JUDICIARY COMMITTEE OF THE 2009 REGULAR SESSION OF THE EIGHTY-THIRD GENERAL ASSEMBLY OF THE STATE OF IOWA.

Pursuant to Iowa Code sections 602.4201 and 602.4202 (2009), the Supreme Court of Iowa has approved and reports on this date to the Chair of the Senate Judiciary Committee the adoption of Iowa Rules of Civil Procedure 1.715, 1.903(3), 1.954, 1.1701, 1.1901 Forms 12, 13, 14 and 15. These amendments shall take effect October 9, 2009.

Dated this 10th day of August, 2009.

Respectfully submitted,
THE SUPREME COURT OF IOWA

By Marsha Ternus
Marsha Ternus, Chief Justice

ACKNOWLEDGMENT

I, the undersigned, Chair of the Senate Judiciary Committee, hereby acknowledge delivery to me on the ___ day of _____, the Report of the Supreme Court pertaining to Iowa Rules of Civil Procedure 1.715, 1.903(3), 1.954, 1.1701, 1.1901 Forms 12, 13, 14 and 15.

Chair of the Senate Judiciary Committee

Please retain the copy and sign and return the original to: The Iowa Supreme Court Clerk's Office, Iowa Judicial Branch Building, 1111 East Court Avenue, Des Moines, IA 50319.

CHAPTER 1

IOWA RULES OF CIVIL PROCEDURE

Rule 1.715 Deposition subpoena.

1.715(1) On application of any party, or proof of service of a notice to take depositions under rule 1.707 or rule 1.710, the clerk of court where the action is pending shall issue subpoenas for persons named in and described in said notice of application. Subpoenas may also be issued as provided by statute or by rule 1.1701.

1.715(2) No resident of Iowa shall be subpoenaed to attend more than 50 miles from~~out of the county~~ where the deponent resides, or is employed, or transacts business in person.

CHAPTER 1

RULES OF CIVIL PROCEDURE

1.903(3) *Court reporter memorandum.* Promptly after reporting a proceeding a court reporter shall file a memorandum that includes all of the following:

- a. The type of proceeding that was reported.
- b. The date(s) on which the proceeding occurred.
- c. The name of the court reporter who reported the proceeding.
- d. The name of the judge who presided over the proceeding.
- e. The reporting fee for the proceeding.

The court reporter shall use the court reporter memorandum form found in rule 1.1901, form 12. The form shall be signed by the court reporter. The court reporter is not required to serve the memorandum on the parties. The district court clerk shall enter the memorandum on the docket. This memorandum shall constitute the certification required by Iowa Code section 624.10.

CHAPTER 1

IOWA RULES OF CIVIL PROCEDURE

Rule 1.954 Judgment on the pleadings. ~~Any party may, at any time, on motion, have any judgment to which that party is entitled under the uncontroverted facts stated in all the pleadings, or on any portion of that party's claim or defense which is not controverted, leaving the action to proceed as to any other matter of which such judgment does not dispose. After the pleadings a party may move for judgment on the pleadings.~~

1 fees for one day's attendance and their traveling fees to and from the court. If
2 the subpoena commands the production of documents, electronically stored
3 information, or tangible things or the inspection of premises before trial, then
4 before it is served, a notice must be served on each party.

5 *b. Permissible place of service.* A subpoena may be served at any place:

6 (1) within the State of Iowa;

7 (2) that the court authorizes on motion and for good cause, if a statute
8 so provides.

9 *c. Proof of service.* Proving service, when necessary, requires filing with
10 the issuing court a statement showing the date and manner of service and the
11 names of persons served. The server must certify the statement in accordance
12 with Iowa Code section 622.1.

13 **1.1701(4) *Protecting a person subject to a subpoena.***

14 *a. Avoiding undue burden or expense; sanctions.* A party or attorney
15 responsible for issuing and serving a subpoena must take reasonable steps to
16 avoid imposing undue burden or expense on a person subject to the subpoena.
17 The issuing court must enforce this duty and impose an appropriate sanction,
18 which may include lost earnings and reasonable attorney's fees, on a party or
19 attorney who fails to comply.

20 *b. Command to produce materials or permit inspection.*

21 (1) *Appearance not required.* A person commanded to produce
22 documents, electronically stored information, or tangible things, or to permit
23 the inspection of premises, need not appear in person at the place of
24 production or inspection unless also commanded to appear for a deposition,
25 hearing, or trial.

26 (2) *Objections.* A person commanded to produce documents or tangible
27 things or to permit inspection may serve on the party or attorney designated in
28 the subpoena a written objection to inspecting, copying, testing or sampling
29 any or all of the materials or to inspecting the premises, or to producing
30 electronically stored information in the form or forms requested. The objection
31 must be served before the earlier of the time specified for compliance or 14
32 days after the subpoena is served. If an objection is made, the following rules
33 apply:

34 1. At any time, on notice to the commanded person, the serving party
35 may move the issuing court for an order compelling production or inspection.

36 2. These acts may be required only as directed in the order, and the
37 order must protect a person who is neither a party nor a party's officer from
38 significant expense resulting from compliance.

39 *c. Attendance.* Any party shall be permitted to attend at the same time
40 and place and for the same purposes specified in the subpoena. No prior
41 notice of intent to attend is required.

1 d. *Quashing or modifying a subpoena.*

2 (1) *When required.* On timely motion, the issuing court must quash or
3 modify a subpoena that:

4 1. fails to allow a reasonable time to comply;

5 2. requires a person who is neither a party nor a party's officer to travel
6 more than 50 miles from where that person resides, is employed, or regularly
7 transacts business in person, except that a person may be ordered to attend
8 trial anywhere within the state in which the person is served with a subpoena;

9 3. requires disclosure of privileged or other protected matter, if no
10 exception or waiver applies; or

11 4. subjects a person to undue burden.

12 (2) *When permitted.* To protect a person subject to or affected by a
13 subpoena, the issuing court may, on motion, quash or modify the subpoena if
14 it requires:

15 1. disclosing a trade secret or other confidential research, development,
16 or commercial information; or

17 2. disclosing an unretained expert's opinion or information that does
18 not describe specific occurrences in dispute and results from the expert's study
19 that was not requested by a party.

20 3. a person who is neither a party nor a party's officer to incur
21 substantial expense to travel more than 50 miles to attend trial.

22 (3) *Specifying conditions as an alternative.* In the circumstances
23 described in rule 1.1701(4)(d)(2), the court may, instead of quashing or
24 modifying a subpoena, order appearance or production under specified
25 conditions if the serving party:

26 1. shows a substantial need for the testimony or material that cannot
27 be otherwise met without undue hardship; and

28 2. ensures that the subpoenaed person will be reasonably
29 compensated.

30 **1.1701(5) Duties in responding to a subpoena.**

31 a. *Producing documents or electronically stored information.* These
32 procedures apply to producing documents or electronically stored information:

33 (1) *Documents.* A person responding to a subpoena to produce
34 documents must produce them as they are kept in the ordinary course of
35 business or must organize and label them to correspond to the categories in
36 the demand.

37 (2) *Form for producing electronically stored information not specified.* If a
38 subpoena does not specify a form for producing electronically stored
39 information, the person responding must produce it in a form or forms in
40 which it is ordinarily maintained or in a reasonably usable form or forms.

1 (3) *Electronically stored information produced in only one form.* The
2 person responding need not produce the same electronically stored information
3 in more than one form.

4 (4) *Inaccessible electronically stored information.* The person responding
5 need not provide discovery of electronically stored information from sources
6 that the person identifies as not reasonably accessible because of undue
7 burden or cost. On motion to compel discovery or for a protective order, the
8 person responding must show that the information is not reasonably accessible
9 because of undue burden or cost. If that showing is made, the court may
10 nonetheless order discovery from such sources if the requesting party shows
11 good cause, considering the limitations of rule 1.504(1)(b). The court may
12 specify conditions for the discovery.

13 *b. Claiming privilege or protection.*

14 (1) *Information withheld.* A person withholding subpoenaed information
15 under a claim that it is privileged or subject to protection as trial-preparation
16 material must:

- 17 1. expressly make the claim; and
- 18 2. describe the nature of the withheld documents, communications, or
19 tangible things in a manner that, without revealing information itself privileged
20 or protected, will enable the parties to assess the claim.

21 (2) *Information produced.* If information produced in response to a
22 subpoena is subject to a claim of privilege or of protection as trial-preparation
23 material, the person making the claim may notify any party that received the
24 information of the claim and the basis for it. After being notified, a party must
25 promptly return, sequester, or destroy the specified information and any copies
26 it has; must not use or disclose the information until the claim is resolved;
27 must take reasonable steps to retrieve the information if the party disclosed it
28 before being notified; and may promptly present the information to the court
29 under seal for a determination of the claim. The person who produced the
30 information must preserve the information until the claim is resolved.

31 **1.1701(6)** *Duties of issuer of subpoena; producing copies of materials*
32 *obtained by subpoena.* When a party on whose behalf a subpoena under rule
33 1.1701(1) has been issued thereby creates or obtains copies of designated
34 electronically stored information, books, papers, documents or tangible things,
35 that party shall make available a duplicate of such copies at the request of any
36 other party, who shall be responsible for payment of the reasonable cost of
37 making the copies.

38 **1.1701(7)** *Contempt.* The issuing court may hold in contempt a person
39 who, having been served and if necessary been provided fees and traveling
40 expenses allowed by law, fails without adequate excuse to obey the subpoena.
41 A nonparty's failure to obey must be excused if the subpoena purports to
42 require the nonparty to attend or produce at a place outside the limits of rule
43 1.1701(4)(d)(1)2.

Rule 1.1901 – Form 12: Court Reporter Memorandum and Certificate

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

<p>_____ Plaintiff/Petitioner, vs. _____ Defendant/Respondent.</p>	<p>No. _____</p> <p style="text-align: center;">COURT REPORTER MEMORANDUM AND CERTIFICATE</p>
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COURT REPORTER MEMORANDUM

(The court reporter shall file this memorandum with the district court clerk.)

Appearances:

For Plaintiff/Petitioner _____

For Defendant/Respondent _____

Other _____

Information required by Iowa Rule of Civil Procedure 1.903(3):

I _____ (*insert name*) am providing the following information as required by Iowa Rule of Civil Procedure 1.903(3):

1. The type of proceeding that was reported: _____

2. The date(s) on which the proceeding occurred: _____

3. The name of the court reporter who reported the proceeding: _____

4. The name of the judge who presided over the proceeding: _____

5. The reporting fee for the proceeding: _____

6. We, the undersigned judge before whom the above-entitled case was tried, and the official court reporter who, by order of the court, reported the same, do hereby certify that the above and foregoing is the report of the whole proceedings upon the trial and/or hearing of the above-entitled cause made and take pursuant to the order and direction of the court,

in accordance with Iowa Code section 624.10.

DATED this ___ day of _____, ____.

(Signature of Court Reporter)

(Signature of Judge)

Rule 1.1901 – Form 13: Subpoena Form to Testify at Deposition or Produce Documents

THE IOWA DISTRICT COURT FOR _____ COUNTY

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No. _____

**SUBPOENA TO TESTIFY AT A DEPOSITION
OR TO PRODUCE DOCUMENTS IN A CIVIL ACTION**

To: _____

YOU ARE COMMANDED to appear at the time, date, and place specified below to testify at a deposition to be taken in this civil action. If you are an organization that is not a party in this case, you must designate one or more officers, directors, or managing agents, or designate other person who consents to testify on your behalf about the following matter, or those set forth in an attachment:

Place: _____

Date: _____ Time: _____

The deposition will be recorded by this method: _____

You or your representative must also bring with you to the deposition the following books, documents, electronically stored information, or tangible things, and permit their inspection, copying, testing, or sampling of the material:

Form of electronically stored information to be produced: _____

Date: _____

Signature of Clerk of the District Court

OR

Attorney's signature

PLEASE NOTE: If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at _____. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

The name, address, e-mail, and telephone number of the attorney representing (*name of party*) _____

_____, who issues or requests this subpoena:

PROOF OF SERVICE

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

- I personally served the subpoena on the individual at *(place)* _____
_____ on *(date)* _____; or
- I left the subpoena at the individual's dwelling house or usual place of abode with *(name)* _____
_____, a person residing therein who is at least 18 years old; or
- I served the subpoena on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or
- I returned the subpoena unexecuted because _____; or
- Other *(specify)*:

WITNESS FEES

- No witness fee requested or required under Iowa Code section 622.74.
- I have tendered to the witness fees for one day's attendance in the amount of \$ _____ and the
mileage allowed by law in the amount of \$ _____, for a total of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a genuine copy of the foregoing document was served upon the persons
named below and at the address indicated on the ___ day of _____, 20__ by the following method _____
_____:

Name and address of party or attorney: _____

Signature of server

Iowa Rules of Civil Procedure 1.1701(4) and 1.1701(5)

1.1701(4) Protecting a person subject to a subpoena.

a. Avoiding undue burden or expense; sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction, which may include lost earnings and reasonable attorney's fees, on a party or attorney who fails to comply.

b. Command to produce materials or permit inspection.

(1) *Appearance not required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(2) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises, or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

1. At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

2. These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

c. Attendance. Any party shall be permitted to attend at the same time and place and for the same purposes specified in the subpoena. No prior notice of intent to attend is required.

d. Quashing or modifying a subpoena.

(1) *When required.* On timely motion, the issuing court must quash or modify a subpoena that:

1. fails to allow a reasonable time to comply;

2. requires a person who is neither a party nor a party's officer to travel more than 50 miles from where that person resides, is employed, or regularly transacts business in person, except that a person may be ordered to attend trial anywhere within the state in which the person is served with a subpoena;

3. requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

4. subjects a person to undue burden.

(2) *When permitted.* To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

1. disclosing a trade secret or other confidential research, development, or commercial information; or

2. disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

3. a person who is neither a party nor a party's officer to incur substantial expense to travel more than 50 miles to attend trial.

(3) *Specifying conditions as an alternative.* In the circumstances described in rule 1.1701(4)(d)(2), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

1. shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

2. ensures that the subpoenaed person will be reasonably compensated.

1.1701(5) Duties in responding to a subpoena.

a. Producing documents or electronically stored information. These procedures apply to producing documents or electronically stored information:

(1) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(2) *Form for producing electronically stored information not specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(3) *Electronically stored information produced in only one form.* The person responding need not produce the same electronically stored information in more than one form.

(4) *Inaccessible electronically stored information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of rule 1.504(1)(b). The court may specify conditions for the discovery.

b. Claiming privilege or protection.

(1) *Information withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

1. expressly make the claim; and

2. describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(2) *Information produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

Rule 1.1901 – Form 14: *Subpoena Form to Testify at Hearing or Trial*

THE IOWA DISTRICT COURT FOR _____ COUNTY

)
)
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)
)

No. _____

**SUBPOENA TO APPEAR AND TESTIFY
AT A HEARING OR TRIAL IN A CIVIL ACTION**

To: _____

YOU ARE COMMANDED to appear in the Iowa District Court for _____ County at the time, date, and place specified below to testify at a hearing or trial in the above case. When you arrive, you must remain in the court until a judge or court officer allows you to leave. If you are an organization that is not a party in this case, you must designate one or more officers, directors, or managing agents, or designate other person who consents to testify on your behalf about the following matter, or those set forth in an attachment:

Place: _____

Date: _____ Time: _____

You must also bring with you the following books, documents, electronically stored information, or tangible things:

Form of electronically stored information to be produced: _____

Date: _____

Signature of Clerk of the District Court

OR

Attorney's signature

PLEASE NOTE: If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at _____. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

The name, address, e-mail, and telephone number of the attorney representing (name of party) _____

_____, who issues or requests this subpoena:

PROOF OF SERVICE

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

- I personally served the subpoena on the individual at *(place)* _____
_____ on *(date)* _____; or
- I left the subpoena at the individual's dwelling house or usual place of abode with *(name)* _____
_____, a person residing therein who is at least 18 years old; or
- I served the subpoena on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or
- I returned the subpoena unexecuted because _____; or
- Other *(specify)*:

WITNESS FEES

- No witness fee requested or required under Iowa Code section 622.74.
- I have tendered to the witness fees for one day's attendance in the amount of \$ _____ and the
mileage allowed by law in the amount of \$ _____, for a total of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a genuine copy of the foregoing document was served upon the persons
named below and at the address indicated on the ___ day of _____, 20__ by the following method _____
_____:

Name and address of party or attorney: _____

Signature of server

Iowa Rules of Civil Procedure 1.1701(4) and 1.1701(5)

1.1701(4) Protecting a person subject to a subpoena.

a. Avoiding undue burden or expense; sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction, which may include lost earnings and reasonable attorney's fees, on a party or attorney who fails to comply.

b. Command to produce materials or permit inspection.

(1) *Appearance not required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(2) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises, or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

1. At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

2. These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

c. Attendance. Any party shall be permitted to attend at the same time and place and for the same purposes specified in the subpoena. No prior notice of intent to attend is required.

d. Quashing or modifying a subpoena.

(1) *When required.* On timely motion, the issuing court must quash or modify a subpoena that:

1. fails to allow a reasonable time to comply;

2. requires a person who is neither a party nor a party's officer to travel more than 50 miles from where that person resides, is employed, or regularly transacts business in person, except that a person may be ordered to attend trial anywhere within the state in which the person is served with a subpoena;

3. requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

4. subjects a person to undue burden.

(2) *When permitted.* To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

1. disclosing a trade secret or other confidential research, development, or commercial information; or

2. disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

3. a person who is neither a party nor a party's officer to incur substantial expense to travel more than 50 miles to attend trial.

(3) *Specifying conditions as an alternative.* In the circumstances described in rule 1.1701(4)(d)(2), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

1. shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

2. ensures that the subpoenaed person will be reasonably compensated.

1.1701(5) Duties in responding to a subpoena.

a. Producing documents or electronically stored information. These procedures apply to producing documents or electronically stored information:

(1) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(2) *Form for producing electronically stored information not specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(3) *Electronically stored information produced in only one form.* The person responding need not produce the same electronically stored information in more than one form.

(4) *Inaccessible electronically stored information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of rule 1.504(1)(b). The court may specify conditions for the discovery.

b. Claiming privilege or protection.

(1) *Information withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

1. expressly make the claim; and

2. describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(2) *Information produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

Rule 1.1901 – Form 15: *Subpoena Form to Produce Documents or Permit Inspection*

THE IOWA DISTRICT COURT FOR _____ COUNTY

)
) No. _____
)
) **SUBPOENA TO PRODUCE BOOKS, DOCUMENTS,**
) **ELECTRONICALLY STORED INFORMATION, OR**
) **TANGIBLE THINGS OR TO PERMIT INSPECTION OF**
) **PREMISES**

To: _____

YOU ARE COMMANDED to produce at the time, date, and place specified below the following books, documents, electronically stored information, or tangible things, and permit their inspection, copying, testing, or sampling of the material:

Place: _____

Date: _____ Time: _____

Form of electronically stored information to be produced: _____

YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated objection or operation on it.

Place: _____

Date: _____ Time: _____

Date: _____

Signature of Clerk of the District Court
OR

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (*name of party*) _____

_____, who issues or requests this subpoena:

PROOF OF SERVICE

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)*_____.

- I personally served the subpoena on the individual at (place) _____
_____ on *(date)* _____; or
- I left the subpoena at the individual's dwelling house or usual place of abode with *(name)* _____
_____, a person residing therein who is at least 18 years old; or
- I served the subpoena on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or
- I returned the subpoena unexecuted because _____; or
- Other *(specify)*:

WITNESS FEES

- No witness fee requested or required under Iowa Code section 622.74.
- I have tendered to the witness fees for one day's attendance in the amount of \$ _____ and the
mileage allowed by law in the amount of \$ _____, for a total of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a genuine copy of the foregoing document was served upon the persons
named below and at the address indicated on the ___ day of _____, 20__ by the following method _____
_____:

Name and address of party or attorney: _____

Signature of server

Iowa Rules of Civil Procedure 1.1701(4) and 1.1701(5)

1.1701(4) Protecting a person subject to a subpoena.

a. Avoiding undue burden or expense; sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction, which may include lost earnings and reasonable attorney's fees, on a party or attorney who fails to comply.

b. Command to produce materials or permit inspection.

(1) *Appearance not required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(2) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises, or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

1. At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

2. These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

c. Attendance. Any party shall be permitted to attend at the same time and place and for the same purposes specified in the subpoena. No prior notice of intent to attend is required.

d. Quashing or modifying a subpoena.

(1) *When required.* On timely motion, the issuing court must quash or modify a subpoena that:

1. fails to allow a reasonable time to comply;

2. requires a person who is neither a party nor a party's officer to travel more than 50 miles from where that person resides, is employed, or regularly transacts business in person, except that a person may be ordered to attend trial anywhere within the state in which the person is served with a subpoena;

3. requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

4. subjects a person to undue burden.

(2) *When permitted.* To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

1. disclosing a trade secret or other confidential research, development, or commercial information; or

2. disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

3. a person who is neither a party nor a party's officer to incur substantial expense to travel more than 50 miles to attend trial.

(3) *Specifying conditions as an alternative.* In the circumstances described in rule 1.1701(4)(d)(2), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

1. shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

2. ensures that the subpoenaed person will be reasonably compensated.

1.1701(5) Duties in responding to a subpoena.

a. Producing documents or electronically stored information. These procedures apply to producing documents or electronically stored information:

(1) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(2) *Form for producing electronically stored information not specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(3) *Electronically stored information produced in only one form.* The person responding need not produce the same electronically stored information in more than one form.

(4) *Inaccessible electronically stored information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of rule 1.504(1)(b). The court may specify conditions for the discovery.

b. Claiming privilege or protection.

(1) *Information withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

1. expressly make the claim; and

2. describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(2) *Information produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.